

# State of Wisconsin



2009 Senate Bill 383

Date of enactment: **May 18, 2010**

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## 2009 WISCONSIN ACT 402

AN ACT *to repeal* 755.09 (3), 800.01 (1) (b), 800.01 (1) (c), 800.02 (2) (a) 8m., 800.02 (3), 800.03, 800.04 (title), 800.04 (1) (a) to (c), 800.04 (1) (e), 800.04 (1) (f), 800.04 (3), 800.04 (4), 800.04 (5), 800.05 (2), 800.09 (1) (c) and 800.09 (2); *to renumber* 800.02 (2) (a) 1., 800.02 (2) (a) 2., 800.02 (2) (a) 5. and 6., 800.02 (2) (a) 8., 800.02 (2) (a) 9., 800.02 (2) (a) 10., 800.04 (2) (a) and 800.05 (4); *to renumber and amend* 755.001, 755.01 (5), 755.10, 800.02 (2) (a) (intro.), 800.02 (2) (a) 3., 800.02 (2) (a) 4., 800.02 (2) (a) 7., 800.04 (1) (d), 800.04 (2) (b), 800.04 (2) (c), 800.04 (2m), 800.09 (1) (intro.), 800.09 (1) (a) and 800.09 (1) (b); *to consolidate, renumber and amend* 800.01 (1) (intro.) and (a); *to amend* 165.83 (2) (e), 177.13, 302.373 (1) (b), 302.373 (2) (a), 343.30 (5), 345.43 (1), 345.47 (1) (a), 345.47 (1m), 565.30 (5r) (a), 565.30 (5r) (b), 755.01 (1), 755.01 (2), 755.01 (4), 755.02, 755.03 (1), 755.03 (2), 755.04, 755.045 (1) (a), 755.045 (2), 755.05, 755.06, 755.09 (1), 755.09 (2), 755.11, 755.15, 755.16, 755.17 (title), 755.17 (1), 755.17 (2), 755.18 (title), 755.18 (1), 755.19 (2) (a), 755.21 (intro.), 778.30 (1) (intro.), 800.02 (1), 800.02 (2) (am), 800.02 (2) (b), 800.025, 800.05 (title), 800.05 (1), 800.05 (3), 800.06 (2), 800.06 (3), 800.065 (title), 800.065 (1), 800.065 (3), 800.065 (4), 800.07, 800.08 (1), 800.08 (2) (a), 800.08 (2) (b), 800.08 (3), 800.08 (4), 800.09 (title), 800.093 (1) (intro.), 800.093 (1) (a), 800.093 (2), 800.093 (3) (b) (intro.), 800.093 (4) (intro.), 800.093 (5) (intro.), 800.10 (1), 800.10 (2), 800.11 (1) (intro.), 800.11 (1) (a), 800.11 (1) (g), 800.11 (1) (q), 800.11 (2), 800.11 (3) (c), 800.11 (4), 800.13 (1), 800.14 (1), 800.14 (2), 800.14 (3), 800.14 (4), 800.14 (5), 800.14 (6) and 938.237 (2); *to repeal and recreate* 343.30 (5), 800.001, 800.01 (2), 800.02 (2) (title), 800.06 (1), 800.095, 800.115 and 800.12; and *to create* 111.70 (4) (mc) 4., 755.001 (2), 755.001 (3), 755.10 (2), 755.17 (1m), 755.17 (3), 755.17 (4), 800.01 (2m), 800.02 (2) (ag) 1m., 800.02 (2) (ag) 9m., 800.035, 800.037, 800.045, 800.05 (4) (a), 800.05 (5), 800.085 and 800.09 (1b) (b), (c), (d) and (e) of the statutes; **relating to:** municipal court elections, judges, and procedure, and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 111.70 (4) (mc) 4. of the statutes is created to read:

111.70 (4) (mc) 4. The judge's authority over the supervisory tasks provided in s. 755.10, if the municipal employee is a clerk who is not an employee of a city of the first class.

**SECTION 2.** 165.83 (2) (e) of the statutes is amended to read:

165.83 (2) (e) Obtain and file a copy or detailed description of each arrest warrant issued in this state for the offenses under par. (a) or s. 800.03 (4) 346.63 (1) or (5) but not served because the whereabouts of the person named on the warrant is unknown or because that person has left the state. All available identifying data shall be obtained with the copy of the warrant, including any

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

information indicating that the person named on the warrant may be armed, dangerous or possessed of suicidal tendencies.

**SECTION 3.** 177.13 of the statutes is amended to read:

**177.13 Property held by courts and public agencies.** Except as provided in ss. 40.08 (8), 800.095 ~~(7m)~~ (8), 852.01 (3), 863.37 (2) and 863.39, intangible property held for the owner by a court, state or other government, governmental subdivision or agency, public corporation or public authority that remains unclaimed by the owner for more than one year after it became payable or distributable is presumed abandoned.

**SECTION 4.** 302.373 (1) (b) of the statutes is amended to read:

302.373 (1) (b) "Prisoner" means a person who is incarcerated in a jail by court order under s. 800.095 (4) ~~(b)~~ (1) (b).

**SECTION 5.** 302.373 (2) (a) of the statutes is amended to read:

302.373 (2) (a) Except as provided in par. (b), a city, village, or town may seek reimbursement from the prisoner for the amount paid to a county under s. 800.095 ~~(6)~~ (1) (d) for the expenses incurred by the county to incarcerate the prisoner.

**SECTION 6.** 343.30 (5) of the statutes is amended to read:

343.30 (5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 345, 351 or 938 or s. 767.73, ~~800.09 (1) (c)~~, 800.095 (4) ~~(b) 4.~~ (1) (a), 943.21 (3m), or 961.50. When a court revokes, suspends or restricts a juvenile's operating privilege under ch. 938, the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

**SECTION 7.** 343.30 (5) of the statutes, as affected by 2007 Wisconsin Act 20 and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

343.30 (5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 345, 351, or 938 or s. 767.73, 800.095 (1) (a), 943.21 (3m), or 961.50. When a court revokes, suspends, or restricts a juvenile's operating privilege under ch. 938, the department of transportation shall not disclose information concerning or relating to the revocation, suspension, or restriction to any person other than a court, district attorney, county corporation counsel, city, village, or town attorney, law enforcement agency, driver licensing agency of another jurisdiction, or the minor whose operating privilege is revoked, suspended, or restricted, or his

or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

**SECTION 8.** 345.43 (1) of the statutes is amended to read:

345.43 (1) If a case has been transferred under s. ~~800.04 (1) (d)~~ 800.035 (5) (c), or if in circuit court either party files a written demand for a jury trial within 10 days after the defendant enters a plea of not guilty under s. 345.34 and immediately pays the fee prescribed in s. 814.61 (4), the court shall place the case on the jury calendar of the circuit court. The number of jurors shall be 6. If no party demands a trial by jury, the right to trial by jury is permanently waived.

**SECTION 9.** 345.47 (1) (a) of the statutes is amended to read:

345.47 (1) (a) That, subject to s. 800.095 ~~(8) (1) (b)~~, the defendant be imprisoned for a time specified by the court until the judgment is paid, but not to exceed 90 days; or

**SECTION 10.** 345.47 (1m) of the statutes is amended to read:

345.47 (1m) If the action is in municipal court, the court shall determine, at the time of entering judgment under sub. (1), whether incarceration may be ordered for noncompliance with a judgment or order under this section. If incarceration may be ordered because of the defendant's subsequent noncompliance with the judgment, the provisions of s. 800.095 (1) ~~to (3) and (4) (a) (b)~~ apply.

**SECTION 11.** 565.30 (5r) (a) of the statutes is amended to read:

565.30 (5r) (a) Annually, the administrator shall provide each municipal court and clerk of circuit court in the state with a list of the winners or assignees of a lottery prize that is payable in installments. The list shall include each winner or assignee since the date of the previous list.

**SECTION 12.** 565.30 (5r) (b) of the statutes is amended to read:

565.30 (5r) (b) Subject to par. (c), if the administrator receives a notice under s. ~~778.30 (2) (a), 800.09 (1) (c), or 973.05 (5) (a) or 778.30 (2) (a)~~ of the assignment of lottery prizes under s. 778.30 (1) (c), 800.09 (1) (c), or 973.05 (4) (c) ~~or 778.30 (1) (c)~~ and determines that the person subject to the assignment is a winner or assignee of a lottery prize that is payable in installments, the administrator shall withhold the amount of the judgment that is the basis of the assignment from the next installment payment. The administrator shall submit the withheld amount to the court that issued the assignment. At the time of the submittal, the administrator shall charge the administrative expenses related to that withholding and submittal to the winner or assignee of the lottery prize and withhold those expenses from the balance of the installment payment. The administrator shall notify the winner or assignee of the reason that the amount is with-

held from the installment payment. If the initial installment payment is insufficient to pay the judgment and administrative expenses, the administrator shall withhold and submit to the court an amount from any additional installment payments until the judgment and administrative expenses are paid in full and the assignment is no longer in effect. The administrative expenses received by the department shall be credited to the appropriation under s. 20.566 (1) (h).

**SECTION 13.** 755.001 of the statutes is renumbered 755.001 (intro.) and amended to read:

**755.001 Definition Definitions.** (intro.) In this chapter, “judge”:

(1) “Judge” means municipal judge.

**SECTION 14.** 755.001 (2) of the statutes is created to read:

755.001 (2) “Judicial administrative district” means the judicial administrative district having the largest portion of the population in the jurisdiction served by the judge.

**SECTION 15.** 755.001 (3) of the statutes is created to read:

755.001 (3) “Records” mean all of the records subject to SCR chapter 72.

**SECTION 16.** 755.01 (1) of the statutes is amended to read:

755.01 (1) There is created and established in and for each city, town and village, a municipal court designated “Municipal Court for the ....(city, town or village) of ....(name of municipality)”. This A municipal court created under this subsection is a coequal branch of the municipal government, subject to the superintending authority of the supreme court, through the chief judge of the judicial administrative district. A court shall become operative and function after the effective date of this subsection .... [LRB inserts date], when the city council, town board, or village board adopts an ordinance or bylaw providing for the election of a judge and the operation and maintenance of the court, receives a certification from the chief judge of the judicial administrative district that the court meets the requirements under ss. 755.09, 755.10, 755.11, and 755.17, and provides written notification to the director of state courts of the adoption of the ordinance or bylaw. A permanent vacancy in the office of municipal judge shall be filled under s. 8.50 (4) (fm). Any municipal court established under this section is not a court of record. The court shall be maintained at the expense of the municipality. ~~After July 1, 1978, any authorized municipal court courtroom personnel not in the classified service shall be appointed by the municipal court judge or judges. The municipal governing body shall determine the amount budgeted for court maintenance and operations. The budget of the municipal court shall be separate from, or contained on a separate line item from, the budget or line items of all other municipal departments.~~

**SECTION 17.** 755.01 (2) of the statutes is amended to read:

755.01 (2) The governing body may by ordinance or bylaw abolish the municipal court as part of a consolidation under s. 66.0229 or at the end of any term for which the judge has been elected or appointed. The governing body may not abolish the municipal court while an agreement under sub. (4) is in effect.

**SECTION 18.** 755.01 (4) of the statutes is amended to read:

755.01 (4) Two or more cities, towns or villages of this state may enter into an agreement under s. 66.0301 for the joint exercise of the power granted under sub. (1), except that for purposes of this subsection, any agreement under s. 66.0301 shall be effected by the enactment of identical ordinances by each affected city, town or village. Electors of each municipality entering into the agreement shall be eligible to vote for the judge of the municipal court so established. If a municipality enters into an agreement with a municipality that already has a municipal court, the municipalities may provide by ordinance or resolution that the judge for the existing municipal court shall serve as the judge for the joint court until the end of the term or until a special election is held under s. 8.50 (4) (fm). Each municipality shall adopt an ordinance or bylaw under sub. (1) prior to entering into the agreement. The contracting municipalities need not be contiguous and need not all be in the same county. Upon entering into or discontinuing such an agreement, the contracting municipalities shall each transmit a certified copy of the ordinance or bylaw effecting or discontinuing the agreement to the appropriate filing officer under s. 11.02 (3e) and to the director of state courts. When a municipal judge is elected under this subsection, candidates shall be nominated by filing nomination papers under s. 8.10 (6) (bm), and shall register with the filing officer specified in s. 11.02 (3e).

**SECTION 19.** 755.01 (5) of the statutes is renumbered 800.04 (1) (bm) and amended to read:

800.04 (1) (bm) A municipal court shall appoint a guardian ad litem or social worker certified or licensed under ch. 457 for any defendant that the court has reason to believe ~~is mentally incompetent lacks substantial mental capacity to understand the proceedings or assist in his or her defense.~~ The person appointed under this paragraph shall assist the court in making a determination concerning the defendant’s mental capacity. If the court determines that the defendant lacks the mental capacity to understand the proceedings or assist in his or her defense, the court shall suspend the proceedings. The cost of the guardian ad litem or social worker shall be paid by the municipality or municipalities that established the court. The governing body may by ordinance or bylaw authorize the appointment of a guardian ad litem by the municipal judge in any other matter within the jurisdiction of the municipal court.

**SECTION 20.** 755.02 of the statutes is amended to read:

**755.02 Term.** The judges shall be elected at large for a term of ~~2 4~~ years unless a ~~longer~~ different term, not exceeding 4 years nor less than 2 years, is provided by charter ordinance or bylaw enacted under s. 66.0101. The term shall commence on May 1 of the year of the judge's election.

**SECTION 21.** 755.03 (1) of the statutes is amended to read:

755.03 (1) The judge shall, after election, ~~designa-~~  
~~tion~~ or appointment, take and file the official oath as prescribed in s. 757.02 (1) and at the same time execute and file an official bond in an amount to be fixed by the governing body. The governing body shall pay the costs of the bond. No judge may act as such until his or her oath and bond have been filed as required by s. 19.01 (4) (c) and he or she has complied with the requirements of sub. (2) ~~have been complied with~~.

**SECTION 22.** 755.03 (2) of the statutes is amended to read:

755.03 (2) ~~The clerk of the circuit court shall, within~~  
Within 10 days after a municipal judge files takes the oath and bond, ~~execute and mail to, the judge shall file the oath and bond with~~ the clerk of the city, town or village, where the judge was elected, ~~a certified copy of the bond, which shall be filed and preserved in the office by the city, town or village clerk. The certified copy is presumptive evidence of its execution by the judge and sureties or appointed.~~ If the municipal judge is elected under s. 755.01 (4), the clerk of circuit court judge shall file copies of the oath and bond with each applicable municipal clerk. The clerk of the circuit court judge shall file a certified copy of the oath with the office of director of state courts within the 10-day time period after the judge takes the oath.

**SECTION 23.** 755.04 of the statutes is amended to read:

**755.04 Salary and fees.** The governing body shall fix a salary for the judge ~~which shall be in lieu of fees and costs. Fees and taxable costs shall be paid into the municipal treasury as the governing body directs.~~ The salary may be increased by the governing body before the start of the 2nd or a subsequent year of service of the term of the judge, but shall not be decreased during a term. The salary of a municipal judge who is designated or appointed under s. 8.50 (4) (fm) or 800.06 shall be determined by contract between the municipality and the judge. The judge may not serve until the contract is entered into. Salaries may be paid annually or in equal installments as determined by the governing body, but no judge may be paid a salary for any time during the term during which the judge has not executed and filed his or her official bond or official oath, as required by s. 755.03, ~~and filed under s. 19.01 (4) (c).~~

**SECTION 24.** 755.045 (1) (a) of the statutes is amended to read:

755.045 (1) (a) If the action is transferred under s. 800.04 (4) ~~800.035 (5) (c)~~ or 800.05 (3) to a court of record.

**SECTION 25.** 755.045 (2) of the statutes is amended to read:

755.045 (2) A municipal judge may issue civil warrants to enforce matters which are under the jurisdiction of the municipal court, as provided in ch. 800. Municipal judges are also authorized to issue inspection warrants under s. 66.0119.

**SECTION 26.** 755.05 of the statutes is amended to read:

**755.05 Territorial jurisdiction.** Every judge has countywide ~~statewide~~ jurisdiction. ~~If elected in a city or village lying in more than one county, the judge shall qualify and have jurisdiction in each county, the same as though the municipality lay wholly therein, and may hold court in one county while exercising jurisdiction in the other. If elected under s. 755.01 (4) and the contracting municipalities lie in more than one county, the judge shall qualify and have jurisdiction in each county and may hold court in one county while exercising jurisdiction in another county as authorized by this chapter and ch. 800.~~

**SECTION 27.** 755.06 of the statutes is amended to read:

**755.06 Sessions of court.** The municipal court shall be open daily or as ~~directed~~ determined by the judge and approved by the governing body, ~~but the governing body may by ordinance or bylaw allow the judge to determine when the court shall be open.~~

**SECTION 28.** 755.09 (1) of the statutes is amended to read:

755.09 (1) Every judge shall keep his or her office and hold court in any adequate facility provided by the The governing body of the city, village, or town, shall provide the judge with an office or appropriate work space other than at a place prohibited under sub. (2). The judge may issue process or perform ministerial functions at any place in the county.

**SECTION 29.** 755.09 (2) of the statutes is amended to read:

755.09 (2) No judge may keep his or her office or hold court in any tavern, or in any room in which intoxicating liquors are sold, or in any room connecting ~~there-~~  
~~with.~~ For any violation of this section the judge shall forfeit \$25 but the violation of the subsection does not make any order or judgment void with a tavern or room in which intoxicating liquors are sold.

**SECTION 30.** 755.09 (3) of the statutes is repealed.

**SECTION 31g.** 755.10 of the statutes is renumbered 755.10 (1) and amended to read:

755.10 (1) ~~The~~ Except as provided in sub. (2), the judge shall in writing appoint such clerks and deputy

clerks as the personnel that are authorized by the council or board. The council or board shall authorize at least one clerk for each court. Except as provided in sub. (2), the hiring, termination, hours of employment, and work responsibilities of the court personnel, when working during hours assigned to the court, shall be under the judge's authority. Their salaries shall be fixed by the council or board. The clerks shall, before entering upon the duties of their offices, take the oath provided by s. 19.01 and give a bond if required by the council or board. The cost of the bond shall be paid by the municipality. Oaths and bonds of the clerks shall be filed with the municipal clerk.

**SECTION 31m.** 755.10 (2) of the statutes is created to read:

755.10 (2) (a) In the municipal court located in the city of Milwaukee the court administrator shall in writing appoint the personnel that are authorized by the council or board. In the municipal court located in the city of Milwaukee the hiring, termination, hours of employment, and work responsibilities of the court personnel, when working during hours assigned to the court, shall be under the court administrator's authority.

**SECTION 32.** 755.11 of the statutes is amended to read:

**755.11 ~~Papers, how kept~~ Records.** Every judge shall file and keep together all papers records in an action, separate from all other papers records. The judge shall store all records in the office of the court clerk or in another appropriate facility designated by the council or board. Access to the records shall be restricted to court personnel except as authorized by the judge or by law. Nothing in this section is intended to restrict the ability of counsel or parties to read the records. The purchase or implementation of any electronic records management system used by the court shall be approved by the judge.

**SECTION 33.** 755.15 of the statutes is amended to read:

**755.15 Pending actions triable by court which receives books.** When any action is pending before a judge at the time his or her office becomes vacant and his or her books and papers records have been delivered to the circuit court, it may try the action and enter judgment as though the action was begun before it.

**SECTION 34.** 755.16 of the statutes is amended to read:

**755.16 Continuance on vacancy; notice of trial.** All actions before any judge undetermined or appealable when his or her office becomes vacant are continued until the expiration of 10 days from the time when his or her books and papers records were delivered to the circuit court. The court shall give 3 days' notice to the parties to the action.

**SECTION 35.** 755.17 (title) of the statutes is amended to read:

**755.17 (title) Decorum in municipal Municipal court decorum and facilities.**

**SECTION 36.** 755.17 (1) of the statutes is amended to read:

755.17 (1) A municipal judge shall ~~be properly attired in a robe or other suitable clothing when officially wear a black robe while~~ presiding in a municipal court except when exceptional circumstances exist.

**SECTION 37.** 755.17 (1m) of the statutes is created to read:

755.17 (1m) The clerk of the municipal court shall be attired in appropriate clothing and may not, while performing municipal court functions, wear anything that implies or indicates that he or she is a law enforcement officer.

**SECTION 38.** 755.17 (2) of the statutes is amended to read:

755.17 (2) The governing body of the city, village, or town shall provide a courtroom for a municipal judge shall be provided by a municipality court, which shall be in an adequate facility. The courtroom shall be in a public building if a suitable public building is available within the municipality and shall be located in an area separate from the police department by design or signage. The courtroom shall be designed and furnished to create and promote the proper atmosphere of dignity and decorum for the operation of the court.

**SECTION 39.** 755.17 (3) of the statutes is created to read:

755.17 (3) All personnel employed by the court shall be located in an area separate and distinct from the police department by design or signage.

**SECTION 40.** 755.17 (4) of the statutes is created to read:

755.17 (4) Every municipal court shall have a telephone number or extension separate from the telephone number or extension of any other governmental department.

**SECTION 41.** 755.18 (title) of the statutes is amended to read:

**755.18 (title) Municipal judge and court clerk training.**

**SECTION 42.** 755.18 (1) of the statutes is amended to read:

755.18 (1) Municipal court clerks and judges shall participate in a program of continuing ~~judicial~~ education as required by the supreme court.

**SECTION 43.** 755.19 (2) (a) of the statutes is amended to read:

755.19 (2) (a) Under ss. ~~800.04 800.035~~ and 800.095 (4) ~~and (5) (1)~~, conduct initial appearances and receive noncontested forfeiture pleas, order the revocation or suspension of driving privileges and impose forfeitures, impose community service and restitution according to the schedule adopted by the municipal court where

appointed, and issue dispositional and sanction orders pursuant to ch. 938.

**SECTION 44.** 755.21 (intro.) of the statutes is amended to read:

**755.21 Collection.** (intro.) The municipal governing body or court may contract with a collection agency for the collection of unpaid forfeitures, assessments, and surcharges under s. 66.0114 (1) (a). Collection under this section may not begin until the court refers the case to the collection agency. The contract shall provide that the collection agency shall be paid from the proceeds recovered by the collection agency. For each violation for which a forfeiture, assessment, or surcharge is imposed, the municipal court shall determine the amount to be distributed to each entity under s. 66.0114 (1) (bm) and (3) (b) and (c) as follows:

**SECTION 45.** 778.30 (1) (intro.) of the statutes is amended to read:

778.30 (1) (intro.) In addition to the procedures under s. 23.795 or 345.47 or under this chapter for the collection of forfeitures, costs, assessments, surcharges, municipal court judgments, or restitution payments if a defendant fails to pay the forfeiture, costs, assessment, surcharge, municipal court judgment, or restitution payment within the period specified by the circuit court, the court may do any of the following:

**SECTION 46.** 800.001 of the statutes is repealed and recreated to read:

**800.001 Definitions.** In this chapter:

(1) "Judicial administrative district" means the judicial administrative district having the largest portion of the population in the jurisdiction served by the municipal court.

(2) "Municipality" means the city, village, or town that governs the municipal court, or if more than one city, village, or town has agreed jointly to establish a municipal court under s. 755.01, "municipality" means the city, village, or town where the violation occurred.

**SECTION 47.** 800.01 (1) (intro.) and (a) of the statutes are consolidated, renumbered 800.01 (1) and amended to read:

800.01 (1) In municipal court, personal jurisdiction in municipal ordinance violation cases and cases involving a violation of a resolution or bylaw if the resolution or bylaw is authorized by statute is obtained over a defendant when the defendant: (a) is served with a summons and are commenced when the complaint or citation and such documents are is filed with or transmitted to the court;

**SECTION 48.** 800.01 (1) (b) of the statutes is repealed.

**SECTION 49.** 800.01 (1) (c) of the statutes is repealed.

**SECTION 50.** 800.01 (2) of the statutes is repealed and recreated to read:

800.01 (2) The municipal court has jurisdiction over a defendant when any of the following conditions is met:

(a) The defendant is served with a citation or a summons and complaint as provided under s. 801.11 (1) (a) to (c), (5), and (6).

(b) The defendant is arrested and brought before the court personally or through interactive video and audio transmission conducted in accordance with the rules of the supreme court.

(c) The defendant voluntarily appears before the court.

(d) The court finds that the defendant has acknowledged receipt of the citation or summons and complaint.

(e) The summons and complaint or citation are sent to the defendant by 1st class mail.

**SECTION 51.** 800.01 (2m) of the statutes is created to read:

800.01 (2m) The law enforcement officer or municipal employee who serves the summons shall indicate the method of service on the copy of the documents filed or transmitted to the court.

**SECTION 52.** 800.02 (1) of the statutes is amended to read:

800.02 (1) ACTION. An action in municipal court for violation of a municipal ordinance, ~~or violation of a resolution or bylaw if the resolution or bylaw is authorized by statute,~~ is a civil action, and the forfeiture or penalty imposed by any ordinance of the municipality may be collected in an action in the name of the municipality.

**SECTION 53.** 800.02 (2) (title) of the statutes is repealed and recreated to read:

800.02 (2) (title) FORM OF CITATION OR COMPLAINT.

**SECTION 54.** 800.02 (2) (a) (intro.) of the statutes is renumbered 800.02 (2) (a) and amended to read:

800.02 (2) (a) The citation or complaint shall be signed by a ~~peace officer or endorsed by a municipal law enforcement officer,~~ attorney representing the municipality, or, if applicable, signed by a conservation warden. In addition, the governing body of a municipality authorized to adopt the use of citations may designate by ordinance or resolution other municipal officials who may sign and issue citations with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority to sign and issue citations may delegate, with the approval of the governing body, the authority to employees. Authority delegated to an official or employee may be revoked only in the same manner by which it is conferred.

(ag) The citation or complaint shall contain substantially the following information:

**SECTION 55.** 800.02 (2) (a) 1. of the statutes is renumbered 800.02 (2) (ag) 1.

**SECTION 56.** 800.02 (2) (a) 2. of the statutes is renumbered 800.02 (2) (ag) 2.

**SECTION 57.** 800.02 (2) (a) 3. of the statutes is renumbered 800.02 (2) (ag) 3. and amended to read:

800.02 (2) (ag) 3. The violation alleged, the time and place of the occurrence of the violation, a statement that the defendant committed the violation, the ordinance, resolution or bylaw violated, and a designation description of the violation in language which that can be readily understood.

**SECTION 58.** 800.02 (2) (a) 4. of the statutes is renumbered 800.02 (2) (ag) 4. and amended to read:

800.02 (2) (ag) 4. A notice to appear at a date, time and place for the court appearance, and a notice to appear statement as to whether the appearance is mandated by the judge.

**SECTION 59.** 800.02 (2) (a) 5. and 6. of the statutes are renumbered 800.02 (2) (ag) 5. and 6.

**SECTION 60.** 800.02 (2) (a) 7. of the statutes is renumbered 800.02 (2) (ag) 7. and amended to read:

800.02 (2) (ag) 7. Notice that the defendant may by mail, in writing, prior to the court appearance, enter a plea of not guilty and may within 10 days after entry of the plea request a jury trial.

**SECTION 61.** 800.02 (2) (a) 8. of the statutes is renumbered 800.02 (2) (ag) 8.

**SECTION 62.** 800.02 (2) (a) 8m. of the statutes is repealed.

**SECTION 63.** 800.02 (2) (a) 9. of the statutes is renumbered 800.02 (2) (ag) 9.

**SECTION 64.** 800.02 (2) (a) 10. of the statutes is renumbered 800.02 (2) (ag) 10.

**SECTION 65.** 800.02 (2) (ag) 1m. of the statutes is created to read:

800.02 (2) (ag) 1m. The identification of any permit issued to the defendant, or license number of the defendant, if applicable.

**SECTION 66.** 800.02 (2) (ag) 9m. of the statutes is created to read:

800.02 (2) (ag) 9m. In an action against a corporation organized under ch. 180 or 181, or against a limited liability company organized under ch. 183, a statement of the corporate or company existence and whether the corporation or company is a domestic or foreign corporation or limited liability company.

**SECTION 67.** 800.02 (2) (am) of the statutes is amended to read:

800.02 (2) (am) In 1st class cities, all of the written information required under par. (a), except the information under par. (a) (ag) 1. to 4., 9m., and 10., shall be printed in Spanish on a separate sheet attached to the citation or provided in Spanish on the citation.

**SECTION 68.** 800.02 (2) (b) of the statutes is amended to read:

800.02 (2) (b) Except for parking violations, in traffic regulation actions in municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu of the citation form specified in par. (a) (ag). In actions for violations of local ordinances enacted in accordance with s. 23.33 (11) (am) or 30.77, the citation form specified in

s. 23.54 shall be used in lieu of the citation form specified in par. (a) (ag).

**SECTION 69.** 800.02 (3) of the statutes is repealed.

**SECTION 70.** 800.025 of the statutes is amended to read:

**800.025 Amended citation and complaint.** A citation or complaint under s. 800.02 may be amended ~~once~~ as a matter of course by the municipality prior to the initial appearance of the defendant. A copy of the amended citation or complaint shall be served personally on the defendant or sent to the defendant by 1st class mail. Otherwise, the citation or complaint may be amended ~~only by leave of the court or by written consent of the defendant, upon notice and an opportunity to be heard, at the discretion of the court.~~ At trial, the court may amend a citation or complaint to conform to the evidence. If the court amends the citation or complaint to conform to the evidence, the court shall allow both parties an opportunity to present evidence with respect to the amended citation or complaint.

**SECTION 71.** 800.03 of the statutes is repealed.

**SECTION 72.** 800.035 of the statutes is created to read:

**800.035 Initial appearance.** (1) A defendant may make an initial appearance in person or by submitting a written response to the citation or complaint except when the judge has required an appearance under s. 800.02 (2) (ag) 4.

(2) If a defendant appears in person, all of the following shall occur:

(a) The court shall, either orally or in writing, do all of the following:

1. Inform the defendant of each charge and explain the range of penalties for each charge.

2. Inform the defendant that he or she may plead guilty, not guilty, or no contest or may request a continuance.

3. Inform the defendant of the right to a jury trial on charges filed under an ordinance in conformity with s. 346.63 (1) or (5).

4. Inform the defendant that if he or she is unable to pay the forfeiture, costs, fees, or surcharges due to poverty, he or she may request an installment payment, community service, or a stay of the judgment.

(b) The defendant shall enter a plea or request a continuance.

(c) If the defendant refuses to enter a plea or request a continuance, the court shall enter a plea of not guilty on the defendant's behalf.

(d) If the defendant pleads guilty or no contest, the court may find the defendant guilty of the offense to which the plea is entered and render judgment as provided under s. 800.09, and then determine if the defendant is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d).

(e) If the defendant pleads not guilty and a trial is not held immediately, the court shall schedule the case for a

pretrial conference under s. 800.045, further proceedings, or trial, at the discretion of the court.

(3) If the defendant submits a written response to the citation or complaint and enters a plea of guilty or no contest, the court shall proceed under sub. (2) (d).

(4) If the defendant submits a written response to the citation or complaint and enters a plea of not guilty, the court shall proceed under sub. (2) (e).

(5) (a) If a defendant is charged with a violation of an ordinance in conformity with s. 346.63 (1) or (5), the municipality may, by ordinance, require the defendant to appear in person before the court.

(b) If a person fails to make a required personal appearance under this subsection and the judge issues an arrest warrant, the law enforcement agency that filed or transmitted the uniform traffic citation shall file a detailed description of the warrant with the department of justice.

(6) In all cases, a defendant may enter a plea of no contest and provide a deposit at any time before the initial appearance.

**SECTION 73.** 800.037 of the statutes is created to read:

**800.037 Deposit amount and schedule.** The deposit in traffic cases shall be made as provided in s. 345.26. In boating cases, the deposit shall be made as provided in s. 23.66 and 23.67. The municipal court, with the approval of the governing body of the municipality, shall set the deposit schedule for all other cases. The deposit amount in the schedule may not exceed the maximum penalty established by the municipality for the offense, plus costs, fees, and surcharges imposed under ch. 814.

**SECTION 74.** 800.04 (title) of the statutes is repealed.

**SECTION 75.** 800.04 (1) (a) to (c) of the statutes are repealed.

**SECTION 76.** 800.04 (1) (d) of the statutes is renumbered 800.035 (5) (c) and amended to read:

800.035 (5) (c) If a defendant charged with a violation of an ordinance ~~which~~ that is in conformity with s. 346.63 (1) or (5) pleads not guilty and within 10 days after entry of the plea requests a jury trial and pays the required fees, the municipal judge shall promptly transmit all papers and fees in the cause to the clerk of the circuit court of the county where the violation occurred for a jury trial under s. 345.43. The plea of not guilty and request for jury trial may be made ~~by mail~~ in writing. If the person refused to take a test under s. 343.305 (3) and requested a hearing under s. 343.305 (9) to determine if the person's refusal was proper, the papers and fees involved in that action shall be transferred to the same circuit court, which shall conduct the refusal hearing. ~~The amount of deposit set out in the citation shall accompany the mailed request.~~ Upon receipt of the request, the circuit court shall set a time for trial. Any deposit made personally or ~~by mail~~ in writing is forfeited upon nonappear-

ance at the time set for trial. The required fee for a jury is prescribed in s. 814.61 (4).

**SECTION 77.** 800.04 (1) (e) of the statutes is repealed.

**SECTION 78.** 800.04 (1) (f) of the statutes is repealed.

**SECTION 79.** 800.04 (2) (a) of the statutes is renumbered 800.035 (7) (a).

**SECTION 80.** 800.04 (2) (b) of the statutes is renumbered 800.035 (7) (b) and amended to read:

800.035 (7) (b) If the municipal judge determines that the defendant should not be released under par. (a) ~~and the defendant is charged with a traffic or boating violation,~~ the municipal judge shall release the defendant on a deposit in the amount established ~~by the uniform deposit schedule under s. 345.26 (2) (a) or under s. 23.66.~~ For other violations, the municipal judge shall establish a deposit in an amount not to exceed the maximum penalty for the offense, plus costs, fees, and surcharges imposed under ch. 814 for the violation. If the judge in a 1st class city determines that a defendant appearing before the judge through interactive video and audio transmission should not be released under par. (a), the judge shall inform the defendant that he or she has the right to appear personally before a judge for a determination, not prejudiced by the first appearance, as to whether he or she should be released without a deposit. On failure of the defendant to make a deposit under this paragraph, he or she may be committed to jail ~~pending trial, for not more than 48 hours,~~ only if the judge finds that there is a reasonable basis to believe the person will not appear in court.

**SECTION 81.** 800.04 (2) (c) of the statutes is renumbered 800.035 (8) and amended to read:

800.035 (8) If the defendant ~~has made a deposit under par. (b) or s. 800.03 and does not appear,~~ but has made a deposit in the amount set for the violation, he or she is deemed to have tendered a plea of no contest and submits to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814, not exceeding the amount of the deposit. The court may impose any other penalties allowed by law. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the court finds that the violation meets the conditions in s. 800.093 (1), the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093. If the defendant fails to appear in response to the summons, the court ~~shall~~ may issue a warrant under s. 968.09. If the defendant has made a deposit but does appear, the court shall allow the defendant to withdraw the plea of no contest.

**SECTION 82.** 800.04 (2m) of the statutes is renumbered 800.035 (9) and amended to read:

800.035 (9) If a defendant does not appear at the initial appearance ~~and has not made a deposit in the amount set for the violation, upon proof of jurisdiction under s. 800.01 (2),~~ the court may issue a warrant to bring the



defendant before the court. Upon proof of personal service of the summons or citation under s. 800.01 (1), or upon proof of service of the summons or citation under s. 801.11 (1) (b), the court may either enter a default judgment by reason of the failure of a defendant to respond to a citation under s. 800.02 (2) (a) or a summons under s. 800.02 (4) under s. 800.09 or issue a warrant or summons to bring the defendant before the court. If a warrant is issued for a defendant under this subsection, the defendant may be detained in jail, for not more than 48 hours, prior to the initial appearance.

**SECTION 83.** 800.04 (3) of the statutes is repealed.

**SECTION 84.** 800.04 (4) of the statutes is repealed.

**SECTION 85.** 800.04 (5) of the statutes is repealed.

**SECTION 86.** 800.045 of the statutes is created to read:

**800.045 Pretrial conferences.** (1) The municipal judge may schedule a pretrial conference. Upon agreement of the parties, the parties may waive a pretrial conference.

(2) If the defendant does not appear at the pretrial conference, the court may proceed under s. 800.035 (8) or (9).

(3) If the parties reach an agreement, the agreement shall be submitted to the court for the court's approval. If an agreement is not reached, or if the court does not approve an agreement, the court shall schedule the action for further proceedings.

**SECTION 87.** 800.05 (title) of the statutes is amended to read:

**800.05 (title) Substitution or disqualification of municipal judge.**

**SECTION 88.** 800.05 (1) of the statutes is amended to read:

800.05 (1) ~~In cases specified in s. 800.02 (1), a person charged with a violation~~ A defendant may file a written request for a substitution of a new judge for the municipal judge assigned to the trial of that case. The written request shall be filed not later than 7 days after the initial appearance in person or by an attorney. The municipal judge against whom a request has been filed may set initial bail and accept a plea of not guilty.

**SECTION 89.** 800.05 (2) of the statutes is repealed.

**SECTION 90.** 800.05 (3) of the statutes is amended to read:

800.05 (3) ~~In municipal court, upon~~ Upon receipt of the written request under sub. (1), the original judge shall have no further jurisdiction in the case except as provided in sub. (1) and except to determine if the request was made timely and in proper form. ~~If~~ Upon such a determination, or if no determination is made within 7 days, the court shall refer ~~transfer~~ the matter to the chief judge of the judicial administrative district for the determination and reassignment of the action as necessary. If the request is determined to be proper, the case shall be transferred as provided in s. 751.03 (2). Upon transfer, the municipal judge shall immediately transmit to the appro-

priate court all the papers records in the action and the action shall proceed as if it had been commenced in that court. Upon receipt of the records, the new judge shall specify the court's location in which the case will be heard. In all such cases, the parties shall remain the same, the prosecutor of the transferring court shall be responsible for prosecution in the new court, and the judgment, if any, shall be payable to the transferring court.

**SECTION 91.** 800.05 (4) of the statutes is renumbered 800.05 (4) (b).

**SECTION 92.** 800.05 (4) (a) of the statutes is created to read:

800.05 (4) (a) If a new judge is assigned to the trial of the action, and the defendant has not exercised the right to substitute an assigned judge, a written request for the substitution of the new judge may be filed within 7 days after the giving of actual notice or sending of the notice of assignment to the defendant or the defendant's attorney. If the notice occurs within 48 hours of the trial, or if there has been no notification, the defendant may make an oral or written request for substitution prior to the commencement of the proceedings.

**SECTION 93.** 800.05 (5) of the statutes is created to read:

800.05 (5) If the municipal judge disqualifies himself or herself under s. 757.19 or SCR 60.04, the case shall be transferred under sub. (3).

**SECTION 94.** 800.06 (1) of the statutes is repealed and recreated to read:

800.06 (1) If any municipal judge is to be temporarily absent or is sick or disabled, the municipal judge may, by written request, subject to the order of the chief judge of the judicial administrative district, designate another municipal judge from any municipality within the state to perform his or her duties for a period not to exceed 30 days.

**SECTION 95.** 800.06 (2) of the statutes is amended to read:

800.06 (2) If any municipal judge is incompetent, unable or fails to act, s. 751.03 (2) applies. The parties and their attorneys shall be notified of the transfer to another judge ~~or to circuit court prior to trial. The judge designated or the circuit court to which the case is transferred may, while in possession of the court record, issue execution upon or give a certified transcript of any unsatisfied judgment appearing in the record.~~

**SECTION 96.** 800.06 (3) of the statutes is amended to read:

800.06 (3) Notwithstanding s. 751.03 (2), if there is a permanent vacancy in the office of municipal judge, the chief judge of the judicial administrative district may, ~~upon request by the municipal governing body,~~ designate another municipal judge to perform the duties of the office until the municipal governing body fills the vacancy by temporary appointment under s. 8.50 (4) (fm). ~~The chief judge of the 1st judicial administrative~~

district may designate a municipal judge under this subsection from any municipality within the state. The chief judge of a judicial administrative district other than the 1st judicial administrative district may designate a municipal judge under this subsection from any municipality within the same judicial administrative district as the chief judge. The municipal judge designated under this subsection may exercise all of the authority of the municipal court to which he or she is assigned.

**SECTION 97.** 800.065 (title) of the statutes is amended to read:

**800.065 (title) Temporary reserve Reserve municipal judges; service.**

**SECTION 98.** 800.065 (1) of the statutes is amended to read:

800.065 (1) DEFINITIONS. In this section, “temporary reserve municipal judge” means a former municipal judge for a municipal court for any municipality within the judicial administrative district who has complied with s. 755.03 and is appointed by the chief judge of that the former municipal judge’s judicial administrative district to perform such specified duties on a day-by-day basis as the chief judge may direct.

**SECTION 99.** 800.065 (3) of the statutes is amended to read:

800.065 (3) COMPENSATION. Notwithstanding s. 755.04, temporary reserve municipal judges under this section shall receive compensation in an amount agreed to by contract between the municipality and the temporary reserve municipal judge. The judge may not serve until the contract is entered into and the judge has complied with s. 755.03.

**SECTION 100.** 800.065 (4) of the statutes is amended to read:

800.065 (4) TRAINING. All persons serving as temporary reserve municipal judges under this section are subject to s. 755.18.

**SECTION 101.** 800.07 of the statutes is amended to read:

800.07 Neither party is entitled to pretrial discovery in any action in municipal court, including refusal hearings held by a municipal court under s. 343.305 (9), except that if the defendant moves for pretrial discovery within 30 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names and addresses of witnesses, if available, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed. The defendant may move for pretrial discovery at any other time upon a showing of cause for that discovery.

**SECTION 102.** 800.08 (1) of the statutes is amended to read:

800.08 (1) ~~In a~~ At trial before a municipal court, the municipality may the plaintiff shall provide a prosecutor who is an attorney authorized or licensed to practice law in this state. The municipality plaintiff shall first offer evidence in support of the citation or complaint. The defendant may offer evidence after the municipality plaintiff has rested. If the municipality plaintiff and the defendant have offered evidence upon the citation or complaint, the parties may then respectively offer rebuttal testimony only, unless the court permits them to offer evidence upon their original case. Both parties shall have the opportunity to question all witnesses.

**SECTION 103.** 800.08 (2) (a) of the statutes is amended to read:

800.08 (2) (a) Before testifying ~~in a municipal court~~, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered in a form calculated to awaken his or her conscience and impress the witness with the duty to testify truthfully.

**SECTION 104.** 800.08 (2) (b) of the statutes is amended to read:

800.08 (2) (b) The oath may be administered by the ~~municipal judge~~ or his or her designee substantially in the following form: Do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth, so help you God.

**SECTION 105.** 800.08 (3) of the statutes is amended to read:

800.08 (3) The standard of proof for conviction of any person charged with violation of any municipal ordinance, ~~bylaw or resolution specified in s. 800.02 (1)~~ shall be evidence that is clear, is satisfactory, and convincing convinces the judge to a reasonable certainty.

**SECTION 106.** 800.08 (4) of the statutes is amended to read:

800.08 (4) Except as provided in s. 938.17 (2) (h) 3., ~~municipal courts~~ the court shall be bound by the rules of evidence specified in chs. 901 to 911.

**SECTION 107.** 800.085 of the statutes is created to read:

**800.085 Telephone and audiovisual proceedings.**

At any proceeding under this chapter, a party, witness, or interpreter may appear by telephone or by audiovisual means if any of the following apply:

(1) The parties so stipulate and the court approves.

(2) The court finds good cause after considering the factors under s. 807.13 (2) (c).

**SECTION 108.** 800.09 (title) of the statutes is amended to read:

**800.09 (title) Judgment; failure to appear; plea of guilty.**

**SECTION 109.** 800.09 (1) (intro.) of the statutes is renumbered 800.09 (1b) (intro.) and amended to read:

800.09 (1b) JUDGMENT. (intro.) If ~~a municipal the~~ court finds a defendant guilty, ~~it~~ the court may render

judgment by ordering restitution under s. 800.093 and payment of ~~a~~ any of the following:

(a) ~~A~~ forfeiture, plus costs, fees, and surcharges imposed under ch. 814.

(1d) The court shall apply any payment received on a judgment that includes restitution to first satisfy any payment of restitution ordered, then to pay the forfeiture, costs, fees, and surcharges. ~~If the judgment is not paid, the court may proceed under par. (a), (b), or (c) or any combination of those paragraphs, as follows:~~

**SECTION 110.** 800.09 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 17, is renumbered 800.09 (1g) and amended to read:

800.09 (1g) The court may defer payment of any judgment or provide for installment payments. At the time that the judgment is rendered, the court shall inform the defendant, orally and in writing, of the date by which restitution and the payment of the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, must be made, and of the possible consequences of failure to do so in timely fashion, including imprisonment, as provided in s. 800.095, or suspension of the defendant's motor vehicle operating privilege, as provided in ~~par. sub. (1b) (c)~~, if applicable. In addition, the court shall inform the defendant, orally and in writing, that the defendant should notify the court if he or she is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d), and that he or she may request community service in lieu of payment of the judgment. If the defendant is not present, the court shall ensure that the information is sent to the defendant by mail. If the defendant is present and the court, using the criteria in s. 814.29 (1) (d), determines that the defendant is unable to pay the judgment because of poverty, the court shall provide the defendant with an opportunity to pay the judgment in installments, taking into account the defendant's income, or to perform community service in lieu of payment of the judgment. In 1st class cities, all of the written information required by this ~~paragraph subsection~~ shall be printed in English and Spanish and provided to each defendant.

**SECTION 111.** 800.09 (1) (b) of the statutes is renumbered 800.09 (1j) and amended to read:

800.09 (1j) If the court orders the defendant agrees to perform community service work in lieu of making restitution or of paying the forfeiture, assessments sur- charges, fees and costs, or both, the court may order that the defendant perform community service work for a public agency or a nonprofit charitable organization that is designated approved by the court and agreed to by the public agency or nonprofit charitable organization. Community service work may be in lieu of restitution only if also agreed to ~~by the public agency or nonprofit charitable organization and by the person to whom restitution is owed. The court may utilize any available resources, including any community service work pro-~~

~~gram, in ordering the defendant to perform community service work.~~ The number of hours of community service work required may not exceed the number determined by dividing the amount owed on the forfeiture by the minimum wage established under ch. 104 for adults in nonagriculture, nontipped employment. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored.

**SECTION 112.** 800.09 (1) (c) of the statutes is repealed.

**SECTION 113.** 800.09 (1b) (b), (c), (d) and (e) of the statutes are created to read:

800.09 (1b) (b) Community service work.

(c) An operating privilege suspension or revocation if authorized by law.

(d) Other dispositions authorized by law.

(e) For juveniles, dispositions authorized under s. 938.17 (2).

**SECTION 114.** 800.09 (2) of the statutes is repealed.

**SECTION 115.** 800.093 (1) (intro.) of the statutes is amended to read:

800.093 (1) (intro.) The municipal court, in addition to ordering any payment authorized by law, may order a defendant to make full or partial restitution under this section to any victim or, if the victim is deceased, to his or her estate if the court finds all of the following:

**SECTION 116.** 800.093 (1) (a) of the statutes is amended to read:

800.093 (1) (a) The defendant is guilty of violating an a nontraffic ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both or an ordinance authorizing restitution under s. 346.65 (2r).

**SECTION 117.** 800.093 (2) of the statutes is amended to read:

800.093 (2) Restitution ordered under this section is enforceable in a civil action by the victim named in the order to receive restitution. A court may not order a defendant to pay more than \$4,000 the amount specified in s. 799.01 (1) (d) in restitution under this section. ~~This \$4,000 limit does not apply to restitution ordered for violation of an ordinance that prohibits conduct that is the same as or similar to the conduct prohibited by s. 943.24 or 943.50.~~

**SECTION 118.** 800.093 (3) (b) (intro.) of the statutes is amended to read:

800.093 (3) (b) (intro.) If return of the property under par. (a) is impossible, impractical or inadequate, pay the owner or owner's designee, subject to the \$4,000 limit in sub. (2), the reasonable repair or replacement cost or the greater of the following:

**SECTION 119.** 800.093 (4) (intro.) of the statutes is amended to read:

800.093 (4) (intro.) If the violation resulted in physical injury, the restitution order may require that the

defendant do one or more of the following, subject to the \$4,000 limit in sub. (2):

**SECTION 120.** 800.093 (5) (intro.) of the statutes is amended to read:

800.093 (5) (intro.) The restitution order may require that the defendant do one or more of the following, subject to the \$4,000 limit in sub. (2):

**SECTION 121.** 800.095 of the statutes, as affected by 2009 Wisconsin Act 17, is repealed and recreated to read:

**800.095 Nonpayment of monetary judgment. (1)** If the defendant fails to pay a monetary judgment ordered by the court, the court may order any one of the following, or any combination of the following, except as provided in sub. (3):

(a) Suspension of the defendant's operating privilege until the defendant pays the judgment, but not to exceed 2 years. If the court orders suspension under this paragraph, all of the following apply:

1. The court shall notify the department of transportation of the suspension for failure to pay the judgment. If the defendant pays the judgment, the court shall notify the department of transportation of the payment within 7 days in the form and manner prescribed by the department.

2. The court may order the suspension concurrent or consecutive to any other suspensions or revocations. If the court fails to specify whether the suspension is consecutive or concurrent, the department of transportation shall implement the suspension concurrent with any other suspensions or revocations.

3. If the judgment remains unpaid at the end of the 2-year suspension, the court may not order a further suspension of operating privileges in relation to the outstanding judgment.

3m. If the court terminates the defendant's suspension as the result of the defendant's agreement to a payment plan or community service and the defendant is later suspended because he or she defaults on that plan or service, the new suspension shall be reduced by the amount of time that the suspension was served before being terminated by the court.

4. Serving the complete 2-year suspension of the defendant's operating privilege does not relieve the defendant of the responsibility to pay the judgment.

5. During the period of operating privilege suspension under this paragraph, the defendant may request the court to reconsider the order of suspension based on an inability to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d). The court shall consider the defendant's request. If the court determines that the inability to pay the judgment is because of poverty, the court shall withdraw the suspension and grant the defendant further time to pay or withdraw the suspension and order one or more other sanctions set forth in this subsection, including community service.

6. This paragraph does not apply if the judgment was entered solely for a violation of an ordinance unrelated to the violator's operation of a motor vehicle unless the judgment is ordered under ch. 938. Nonmoving traffic offenses, as defined in s. 345.28 (1) (c), are related to the violator's operation of a motor vehicle.

(b) 1. That the defendant be imprisoned until the forfeiture, assessments, surcharge, and costs are paid. If the court orders imprisonment under this subdivision, all of the following apply:

a. The maximum period of imprisonment shall be 90 days for any one judgment, and the defendant shall receive credit against the amount owed at the rate of at least \$50 for each day of imprisonment, including imprisonment following an arrest but prior to the court making a finding under subd. 2.

b. The court may impose a term of imprisonment under this subdivision that is either concurrent with or consecutive to any other term of imprisonment imposed at the same time or any term of imprisonment imposed by any court.

2. No defendant may be imprisoned under subd. 1. unless the court makes one of the following findings:

a. Either at sentencing or thereafter, that the defendant has the ability to pay the judgment within a reasonable time. If a defendant meets the criteria in s. 814.29 (1) (d), the defendant shall be presumed unable to pay under this subsection and the court shall either suspend or extend payment of the judgment or order community service.

b. The defendant has failed, without good cause, to perform the community service authorized under this subsection or s. 800.09.

c. The defendant has failed to attend an indigency hearing offered by the court to provide the defendant with an opportunity to determine whether he or she has the ability to pay the judgment.

d. The defendant has failed, without good cause, to complete an assessment or treatment program related to alcohol or drugs that was ordered in lieu of a monetary forfeiture.

3. The defendant shall be committed to a jail or a house of correction in the county in which the cause of action arose. The defendant shall be eligible for privileges under s. 303.08. The municipality shall pay the expenses incurred by the county to imprison the defendant.

(c) 1. In this paragraph, "employer" includes the state and the political subdivisions of the state.

2. Assignment to the municipal court of not more than 25 percent of the defendant's commissions, earnings, salaries, wages, pension benefits unless otherwise exempt, benefits under ch. 102, and other money due or to be due to the defendant, including lottery prizes, for

payment of the unpaid forfeiture, costs, surcharge, fees, or restitution.

3. Upon entry of the assignment under subd. 2., unless the court finds that income withholding is likely to cause the defendant irreparable harm, the court shall provide notice of the assignment by regular mail to the last-known address of the person from whom the defendant receives or will receive money. If the municipal court does not receive the money from the person notified, the court shall provide notice of the assignment to any other person from whom the defendant receives or will receive money. Notice of an assignment under subd. 2. shall inform the intended recipient that, if a prior assignment under subd. 2. or s. 778.30 (1) or 973.05 (4) has been received relating to the same defendant, the recipient is required to notify the municipal court that sent the subsequent notice of assignment that another assignment has already been received. A notice of assignment shall include a form permitting the recipient to designate on the form that another assignment has already been received.

4. If, after receiving the annual list under s. 565.30 (5r) (a), the municipal court determines that a person identified in the list may be subject to an assignment under subd. 2., the court shall send the notice of that order to the administrator of the lottery division of the department of revenue, including a statement of the amount owed under the judgment and the name and address of the person owing the judgment. The municipal court shall notify the administrator of the lottery division of the department of revenue when the judgment that is the basis of the assignment has been paid in full.

5. Notice under this paragraph may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order that directs payment.

6. For each payment made under the assignment under subd. 2., the person from whom the defendant under the order receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the defendant.

7. A person who receives notice of the assignment under this paragraph shall withhold the amount specified in the notice from any money that person pays to the defendant later than one week after receipt of the notice of assignment. Within 5 days after the day on which the person pays money to the defendant, the person shall send the amount withheld to the municipal court of the jurisdiction providing notice. If the person has already received a notice of an assignment under this paragraph or s. 778.30 (2) or 973.05 (5), the person shall retain the later assignment and withhold the amount specified in that assignment after the last of any prior assignments is paid in full. Within 10 days of receipt of the later notice, the person shall notify the municipal court that sent the notice that the person has received a prior notice of an

assignment under subd. 2. Section 241.09 does not apply to assignments under this section.

8. If after receipt of notice of assignment under this paragraph the person from whom the defendant receives money fails to withhold the money or send the money to the municipal court as provided in this paragraph, the person may be proceeded against under the principal action under s. 800.12 for contempt of court or may be proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1 percent of the amount not withheld or sent.

9. If an employer who receives notice of an assignment under this paragraph fails to notify the municipal court within 10 days after an employee is terminated or otherwise temporarily or permanently leaves the employer's employment, the employer may be proceeded against under the principal action under s. 800.12 for contempt of court.

10. Compliance by the person from whom the defendant receives money with the order operates as a discharge of the person's liability to the defendant as to that portion of the defendant's commission, earnings, salaries, wages, benefits, or other money so affected.

11. No employer may use an assignment under subd. 2. as a basis for the denial of employment to a defendant, the discharge of an employee, or any disciplinary action against an employee. An employer who denies employment or discharges or disciplines an employee in violation of this subdivision may be fined not more than \$500 and may be required to make full restitution to the aggrieved person, including reinstatement and back pay. Restitution shall be in accordance with s. 973.20. An aggrieved person may apply to the district attorney or to the department of workforce development for enforcement of this subdivision.

12. a. In this subdivision, "payroll period" has the meaning given in s. 71.63 (5).

b. If after an assignment is in effect the defendant's employer changes its payroll period, or the defendant changes employers and the new employer's payroll period is different from the former employer's payroll period, the municipal court may amend the withholding assignment or order so that the withholding frequency corresponds to the new payroll period and the amounts to be withheld reflect the adjustment to the withholding frequency.

13. The municipal court shall provide notice of the amended withholding assignment or order under subd. 12. by regular mail to the defendant's employer and to the defendant.

(d) That the defendant perform community service work for a public agency or nonprofit charitable organization approved by the court and agreed to by the agency or nonprofit charitable organization. If the community service work is in lieu of restitution, then the per-

son to whom restitution is owed must agree; the defendant shall be given credit at the rate of not less than the minimum wage established under ch. 104 for adults in nonagriculture, nontipped employment for each one hour of community service completed. The defendant shall be given a written statement of the community service order. Nothing in this paragraph makes the defendant an employee or agent of the court or the municipality. The defendant shall be responsible for providing the court with proof that the community service hours have been completed.

(2) At any time prior to imprisonment under sub. (1) (b), the defendant may request a review of any findings made under sub. (1) (b) 2.

(3) Subsection (1) (a) and (b) does not apply to orders for restitution under s. 800.093 or in cases where service of the summons and complaint or citation is made by mail as authorized in s. 800.01 (2) (e).

(4) The court may, at any time, authorize payment of the monetary judgment by installment payments, or may modify, suspend, or permanently stay the monetary judgment, or order that the judgment be satisfied by community service.

(5) The court may employ a collection company to collect the judgment under s. 755.21.

(6) The court or collection company may obtain payment through a setoff against the defendant's tax refund under s. 71.935.

(7) In addition to the procedures under this section, a municipality may enforce the judgment in the same manner as for a judgment in an ordinary civil action.

(8) In addition to the procedures under this section, a municipal court may order the transfer of any of the defendant's money or property that the municipality is holding and that is unclaimed by the defendant for more than one year to pay any forfeitures, fees, costs, or surcharges that the defendant failed to pay the municipality.

**SECTION 122.** 800.10 (1) of the statutes is amended to read:

800.10 (1) Fees and costs in municipal court are prescribed in s. 814.65 ch. 814.

**SECTION 123.** 800.10 (2) of the statutes is amended to read:

800.10 (2) All forfeitures, fees, surcharges, and costs paid to a municipal court under a judgment before a municipal judge shall be reported and paid to the municipal treasurer within 7 30 days after receipt of the money by a the municipal judge or other court personnel. ~~At the time of the payment, the municipal judge shall report to the municipal treasurer the title of the action, the offense for which a forfeiture was imposed and the total amount of the forfeiture, fees, surcharges, and costs, if any. The treasurer shall disburse the fees as provided in s. 814.65 (1) ch. 814. All jail surcharges paid to a municipal court under a judgment before a municipal judge shall be paid~~

~~to the county treasurer within 7 days after receipt of the money by a municipal judge or other court personnel.~~

**SECTION 124.** 800.11 (1) (intro.) of the statutes is amended to read:

800.11 (1) (intro.) Every municipal judge court shall keep a court record in which ~~he or she~~ the court shall enter, in actions to which they relate:

**SECTION 125.** 800.11 (1) (a) of the statutes is amended to read:

800.11 (1) (a) The title of every action commenced before the municipal judge court, including the name and address of the defendant;

**SECTION 126.** 800.11 (1) (g) of the statutes is amended to read:

800.11 (1) (g) The judgment rendered by the municipal judge court, including the penalties imposed, the date ~~and time~~ of rendering judgment and the costs assessed in the action;

**SECTION 127.** 800.11 (1) (q) of the statutes is amended to read:

800.11 (1) (q) All motions made in the action, the decision thereon and all other proceedings in the action which the municipal judge court may think useful.

**SECTION 128.** 800.11 (2) of the statutes is amended to read:

800.11 (2) Failure of the municipal judge court to keep a court record properly shall not affect the jurisdiction of the municipal court or render the judgment void.

**SECTION 129.** 800.11 (3) (c) of the statutes is amended to read:

800.11 (3) (c) The name, and address ~~and vocation~~ of the defendant.

**SECTION 130.** 800.11 (4) of the statutes is amended to read:

800.11 (4) If the municipal judge is elected under s. 755.01 (4), the judge court shall keep separate court records for each municipality.

**SECTION 131.** 800.115 of the statutes is repealed and recreated to read:

**800.115 Relief from judgment.** (1) A defendant may within 6 months after the judgment is entered move for relief from the judgment because of mistake, inadvertence, surprise, or excusable neglect.

(2) Any party, including the court on its own motion, may at any time move to reopen the judgment under s. 806.07 (1) (c), (d), (g), or (h).

(3) Nothing in this section shall prevent the parties from stipulating and the court approving the reopening of a judgment for any other reason justifying relief from operation of the judgment.

(4) The court may impose costs on the motion as allowed under s. 814.07.

(5) Upon receiving or making a motion under this section, the court shall provide notice to all parties and schedule a hearing on the motion.

**SECTION 132.** 800.12 of the statutes is repealed and recreated to read:

**800.12 Municipal court contempt procedure. (1)** In this section, "contempt of court" means any of the following intentional acts:

(a) Misconduct in the presence of the court that interferes with the court proceeding or with the administration of justice, or that impairs the respect due the court.

(b) Refusal of a witness to appear without reasonable excuse.

(2) A judge may impose a forfeiture in an amount not to exceed \$200 for a contempt of court.

(3) For a contempt of court described in sub. (1) (a), the judge may impose imprisonment in the county jail for not more than 7 days and impose a forfeiture. These penalties shall be imposed immediately after the contempt of court has occurred and only under the following conditions:

(a) For the purpose of preserving order in the court and protecting the authority and dignity of the court.

(b) After allowing the person who committed the contempt of court an opportunity to address the court.

(4) For a contempt of court described in sub. (1) (b), the judge may do any of the following:

(a) Issue a warrant to bring the witness before the court for the contempt and to testify.

(b) In addition to ordering the witness to pay a forfeiture under sub. (2), the judge may order the witness to pay all costs of the witness's apprehension.

**SECTION 133.** 800.13 (1) of the statutes is amended to read:

800.13 (1) Every proceeding in which testimony is taken under oath or affirmation in a municipal court shall be recorded by electronic means for purposes of appeal.

**SECTION 134.** 800.14 (1) of the statutes is amended to read:

800.14 (1) Appeals from judgments of ~~municipal courts, decisions on motions brought under s. 800.115, or determinations regarding whether the defendant is unable to pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d),~~ may be taken by either party to the circuit court of the county where the offense occurred. The appellant shall appeal by giving the municipal judge and other party written notice of appeal within 20 days after the judgment or decision. No appeals may be taken from default judgments.

**SECTION 135.** 800.14 (2) of the statutes is amended to read:

800.14 (2) On appeal by the defendant, the defendant shall execute a bond, at the discretion of the municipal judge, to the ~~municipality~~ municipal court with or without surety, approved by the municipal judge, that if the judgment is affirmed in whole or in part the defendant shall pay the judgment and all costs awarded on appeal.

**SECTION 136.** 800.14 (3) of the statutes is amended to read:

800.14 (3) On meeting the requirements for appeal, execution on the judgment of the municipal court or enforcement of the order of the municipal court shall be stayed until the final disposition of the appeal.

**SECTION 137.** 800.14 (4) of the statutes is amended to read:

800.14 (4) Upon the request of either party within 20 days after notice of appeal under sub. (1), or on its own motion, the circuit court shall order that a new trial be held in circuit court. An appeal from a judgment where a trial has been held shall be on the record unless, within 20 days after notice of appeal has been filed with the municipal court under sub. (1), either party requests that a new trial be held in circuit court. The new trial shall be conducted by the court without a jury unless either party requests a 6-person jury trial and posts the jury fee under s. 814.61 (4) within 10 days after the order for a new trial. The required fee for a jury is prescribed in s. 814.61 (4).

**SECTION 138.** 800.14 (5) of the statutes is amended to read:

800.14 (5) If there is no request or motion under sub. (4), ~~an or if the appeal is from a judgment or decision in which a trial has not been held, the~~ appeal shall be based upon a review of ~~a transcript of the proceedings in the municipal court.~~ The municipal judge ~~court~~ shall direct that the transcript be prepared from the transmit to the circuit court a copy of the entire record, including any electronic recording created under s. 800.13 (1) and shall certify the transcript. The costs of the transcript shall be paid for under s. 814.65 (5). ~~The electronic recording and the transcript shall be transferred to the circuit court for review. When testimony has been recorded in the municipal court, the municipal court shall order the preparation of a transcript of the proceedings, at the cost of the appellant, from the electronic recording and shall certify the transcript and transmit it with the record. An appellant shall, within 20 days after notice of appeal, submit payment of the estimated cost of the transcript, as determined by the municipal court, but shall be responsible for the actual cost of preparing the transcript. A defendant claiming an inability to pay with regard to the bond or the transcript fee may petition the municipal court for a waiver. A defendant claiming an inability to pay with regard to the appeal fee or jury fee may petition the circuit court for a waiver.~~

**SECTION 139.** 800.14 (6) of the statutes is amended to read:

800.14 (6) The disposition of the appeal shall be certified to the municipal court by the reviewing circuit court within 30 days of the judgment of the ~~reviewing circuit court.~~ If the disposition requires payment of a forfeiture by the defendant, the forfeiture and all costs, fees, and surcharges shall be payable to the municipality.

**SECTION 140.** 938.237 (2) of the statutes is amended to read:



938.237 (2) PROCEDURES. The procedures for issuance and filing of a citation, and for forfeitures, stipulations, and deposits in ss. 23.50 to 23.67, 23.75 (3) and (4), 66.0113, 778.25, 778.26, and 800.01 to ~~800.04~~ 800.035 except s. ~~800.04 (2) (b)~~ 800.035 (7) (b), when the citation is issued by a law enforcement officer, shall be used as appropriate, except that this chapter shall govern taking and holding a juvenile in custody, s. 938.37 shall govern costs, fees, and surcharges imposed under ch. 814, and a capias shall be substituted for an arrest warrant. Sections 66.0113 (3) (c) and (d), 66.0114 (1), and 778.10 as they relate to collection of forfeitures do not apply.

**SECTION 141. Initial applicability.**

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(1) This act first applies to violations committed on the effective date of this subsection.

(2) The treatment of section 111.70 (4) (mc) 4. of the statutes first applies to employees who are affected by a collective bargaining agreement that contains provisions inconsistent with that treatment on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

**SECTION 142. Effective dates.** This act takes effect on January 1, 2011, except as follows:

(1) The repeal and recreation of section 343.30 (5) of the statutes takes effect on January 1, 2011, or on the date on which the creation of section 343.165 of the statutes by [2007 Wisconsin Act 20](#) takes effect, whichever is later.